

REMARKS

The present application includes pending claims 1-38, all of which have been rejected. Claims 1, 5, 10, 13, 20, 21, 23 and 29 have been amended to clarify aspects of the invention.

As an initial matter, the Advisory Action indicates that the amendments of claims 1 and 29 set forth in the March 25, 2008 Amendment “raise new issues that would require further consideration and/or search.” *See* April 21, 2008 Advisory Action. .

Claims 1-4, 7, 8, 10-12, 14-27, 29-32, 35, 36 and 38 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. 2004/0261096 (“Matz”). Claims 5, 6, 13, 33 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Matz in view of U.S. 2002/0166127 (“Hamano”). Claims 9 and 37 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Matz in view of U.S. 6,308,329 (“Takahashi”). Claim 28 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Matz in view of U.S. 6,145,083 (“Shaffer”). The Applicants respectfully traverse these rejections for at least the following reasons:

I. Matz Does Not Anticipate Claims 1-4, 7, 8, 10-12, 14-27, 29-32, 35, 36 And 38

The Applicants first turn to the rejection of claims 1-4, 7, 8, 10-12, 14-27, 29-32, 35, 36 and 38 as being anticipated by Matz. Claim 1 recites, in part, “set top box circuitry at the first location communicatively coupled to support **consumption** of idle state media **and** the **user scheduled media** by the television display; and the set top box circuitry at the first location causing the displaying, from the storage at the first location, **of idle state media when no user scheduled media is available.**” Thus, claim 1 is clear that the idle state media **and** the user scheduled media **are for consumption**. Both types of media are to be presented to a user. Clearly, if the scheduled media is scheduled by a user, it is not being blocked. That is, a user

would not schedule a particular type of media for consumption if it were to be blocked. Further, the media is “user scheduled,” not merely a passive acceptance of what is being offered on normal channels.

A previous Office Action acknowledged that “Matz does not explicitly teach the set top box circuitry causing the displaying from the storage, of idle state media when no scheduled media is available.” *See* August 3, 2007 Office Action at page 3. The final Office Action cites, however, Matz at paragraph [0139] as disclosing this limitation. *See* March 5, 2008 Office Action at page 3.

The Applicants now address this cited portion of Matz. Paragraph [0139] of Matz discloses the following:

In an embodiment, the client device substitutes **blocked** content with other content that is substantially equal in duration. Thus, for example, if a 30-second advertisement is **blocked**, the client device identifies and presents substitute content that is also approximately 30 seconds in duration. Similarly if, for example, a 30 minute program is blocked, substitute content is selected that has approximately a 30-minute duration.

Matz at [0139] (emphasis added). As shown above, this paragraph of Matz discloses that substitute content is presented when content is blocked, but not when **user defined media** is unavailable. Matz also discloses screensavers. *See id.* at, e.g., [0130] and [0138]. However, Matz discloses a “substitute content selection user interface 1200 [that] facilitates a user’s selection of substitute content that may be used in place of content that is determined to be **blocked**.” *See id.* at [0128] (emphasis added). *See also id.* at [0132] (“If the user selects content from server, when content is received that would otherwise be presented but for the fact that the tags indicate the content should be blocked...”).

While the Office Action and Advisory Action have shown that Matz discloses substitute content that is displayed when content is blocked, neither have shown where Matz describes, teaches or suggests “set top box circuitry at the first location communicatively coupled to support **consumption** of idle state media **and** the **user scheduled media** by the television display; and the set top box circuitry at the first location causing the displaying, from the storage at the first location, **of idle state media when no user scheduled media is available**,” as recited in claim 1.

Independent claims 10, 21 and 29 recite similar limitations. Thus, for at least the reasons discussed above, the Applicants respectfully request reconsideration of the rejection of independent claims 1, 10, 21 and 29 and the claims that depend therefrom for at least the reasons discussed above.

II. The Applicants Request Reconsideration Of The Remaining Rejections

As noted above, claims 5, 6, 13, 33 and 34 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Matz in view of Hamano. Claims 9 and 37 stand rejected as being unpatentable over Matz in view Takahashi, while claim 28 stands rejected as being unpatentable over Matz in view of Shaffer. The Applicants respectfully request reconsideration of these rejections for at least the reasons set forth above.

III. Conclusion

In general, the Office Action makes various statements regarding claims 1-38 and the cited references that are now moot in light of the above. Thus, the Applicants will not address such statements at the present time. However, the Applicants expressly reserve the right to

Appln. No. 10/667,829
Amendment Under 37 C.F.R. § 1.114
April 30, 2008

challenge such statements in the future should the need arise (e.g., if such statement should become relevant by appearing in a rejection of any current or future claim).

The Applicants respectfully request that the outstanding rejections be reconsidered and withdrawn. If the Examiner has any questions or the Applicants can be of any assistance, the Examiner is invited to contact the undersigned attorney.

The Commissioner is authorized to charge any necessary fees, including the \$810 fee for the RCE, or credit any overpayment to the Deposit Account of McAndrews, Held & Malloy, Account No. 13-0017.

Respectfully submitted,

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